REMARKS

The Office Action mailed March 27, 2007 has been carefully considered together with each of the references cited therein. The amendments and remarks presented herein are believed to be fully responsive to the Office Action. Reconsideration of the present Application in view of the following remarks is respectfully requested.

Applicant has amended the claims to attend to housekeeping matters and to more clearly recite what Applicant believes to be the invention. In claim 9, Applicant has deleted the reference to M. Support for this amendment may be found in originally filed claim 1. It is believed that no new matter has been introduced by these amendments.

Claim 9 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention for the reason that in claim 9, there is no anion to be paired with M in the formula. As amended, claim 9 no longer contains a reference to M. Therefore, the rejection of claim 9-11 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention should be withdrawn in view of the above amendment and remarks.

Claim 9 was rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. patent No. 6,261,346 to Breuer et al. The rejection of claim 9 under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. patent No. 6,261,346 to Breuer et al. (hereinafter referred to as the '346 Patent) should be withdrawn for the reason that the compounds of the '346 Patent are not the same as the compounds of the instant invention and no one skilled in the art would be motivated to arrive at Applicant's invention based solely on the '346 Patent for the reason that the '346 Patent teaches away from Applicant's invention. The '346 Patent discloses a process for useful for protecting metal surfaces against corrosion using a compound of having the following structure:

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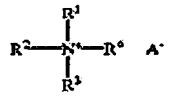
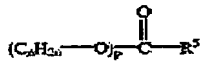
(I)



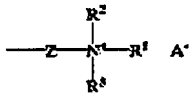
where R^1, R^2 and R^3 independently of one another represent an alkyl or hydroxyalkyl group containing 1 to 4 carbon atoms, an aryl or alkylaryl group or a group corresponding to formula (II):

(II)



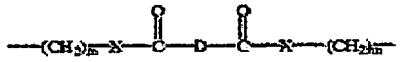
A^- is an anion, n is the number 2 or 3, p is a number of 1 to 3 and R^5 is an alkyl or alkenyl group containing 7 to 23 carbon atoms and 0, 1, 2 or 3 double bonds, and R^4 is a group corresponding to formula (II) or (III):

(III)



where R^1, R^2 and R^3 are as defined above and Z is a group $-(CH_2)_m-$ or a group corresponding to formula (IV):

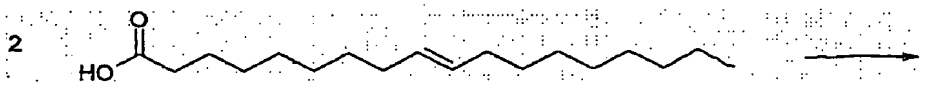
(IV)



m is an integer of 1 to 6, X is a group NH or an oxygen atom and D is a dimer fatty acid residue containing on average 36 to 54 carbon atoms; (b)

Clearly, the only compounds disclosed in the '346 patent are compounds wherein the D is a dimmer fatty acid residue containing on average 36 to 54 carbon atoms.

A dimmer fatty acid is produced in the following manner:



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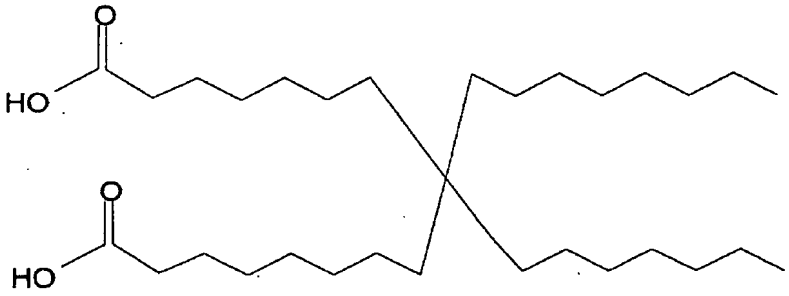
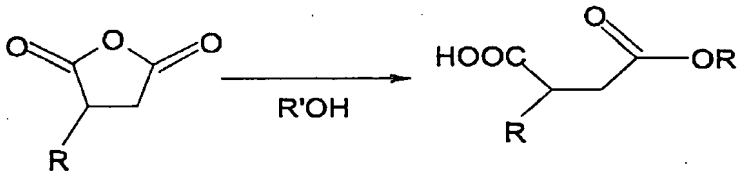


A dimer fatty acid always corresponds to structures having a quaternary carbon atom, and it has a "distance" between the carboxylic acid groups of at least 10 carbon atoms. This differs from the compounds of Applicant's as recited in amended claim 9 in that D is an ethylene group substituted by an organic radical having from 1 to 600 carbon atoms, i.e. a C_2 unit. Applicant's compounds are derivatives of (substituted) succinic acid:



wherein R is an organic residue having 1 to 600 carbon atoms. In Applicant's compounds, the distance between the carboxylic acid groups is always 2 carbon atoms. Thus, the compound of the '346 patent is different from the compound of Applicant's invention, and the '346 Patent teaches away from the instant invention by requiring a D which is a fatty acid dimmer which will always have a molecular distance between the carboxylic groups in the compound of more than 2 carbon atoms. Regarding the rejection under 103(a), no one skilled in the art would be motivated to arrive at Applicant's compound having a distance of only 2 carbon atoms between carboxylic acid groups when the '346 patent disclosed only compounds having such a distance with more than 10 carbon atoms. Clearly, the '346 Patent teaches away from Applicant's compound. Regarding the rejection under 102(b), it is fundamental that all elements of a claim must be found united in the same way to perform the identical function for a reference to establish anticipation. Unless all of the same elements are found in exactly the same situation and united in the same way to perform the identical function in a single prior art

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reference, there is no anticipation. Therefore, the rejection of claim 9 as amended under 35 U.S.C. §102(b) as anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as obvious over Breuer et al. should be withdrawn for the reason that the compounds of the '346 Patent are not the same as the compounds of the instant invention and no one skilled in the art would be motivated to arrive at Applicant's invention based solely on the '346 Patent for the reason that the '346 Patent teaches away from Applicant's invention.

Claim 9 was provisionally rejected under 35 U.S.C. §101 as claiming the same invention as that of claim 12 of copending Application No. 10/783,407. Applicant respectfully points out that claims 12, 15 and 16 of copending Application No. 10/783,407 were canceled during prosecution and are not contained in allowed version of U.S. Application No. 10/783,407. Therefore, the provisional rejection under 35 U.S.C. §101 as claiming the same invention as that of claim 12 of copending Application No. 10/783,407 should be withdrawn.

It is respectfully submitted that, in view of the above remarks, the rejections under §112, §101, §102, and §103 should be withdrawn and that this application is in a condition for an allowance of all pending claims. Accordingly, favorable reconsideration and an allowance of all pending claims are courteously solicited.

An early and favorable action is courteously solicited.

Respectfully submitted,

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